

Message Text

PAGE 01 STATE 200492

14

ORIGIN EB-03

INFO OCT-01 IO-01 ISO-00 /005 R

66610

DRAFTED BY: EB/OT/STA:MCJONES:CLJ

APPROVED BY: EB/OT/STA:WCLARK, JR

----- 099373

R 042125Z SEP 75

FM SECSTATE WASHDC

TO USMISSION GENEVA

INFO USDEL MTN GENEVA

LIMITED OFFICIAL USE STATE 200492

FOLLOWING REPEAT STATE 200492 ACTION CANBERRA 22 AUG

QUOTE

LIMITED OFFICIAL USE STATE 200492

E.O. 11652:N/A

TAGS: ETRD, AU

SUBJECT: COUNTERVAILING DUTIES ON AUSTRALIAN BUTTER

1. AS EMBASSY AWARE WE HAVE SPENT LAST YEAR IN INFORMAL DISCUSSIONS WITH AUSTRALIANS OVER COUNTERVAILING DUTY TO BE ASSESSED ON A SHIPMENT OF BUTTER WHICH ARRIVED IN U.S. IN DECEMBER 1973. MOST RECENTLY AUSTRALIAN EMBASSY ASKED DEPARTMENT TO HAVE ITS LEGAL BUREAU REVIEW THE TREASURY ACTION IN LIGHT OF AUSTRALIAN ASSUMPTIONS. THIS WAS DONE AND CONCLUSION WAS THAT TREASURY HAD TAKEN CORRECT ACTION IN CASE.

2. AUSTRALIANS HAVE RECENTLY MADE TWO POINTS: A) THAT THE AUSTRALIAN PRICE EQUALIZATION SYSTEM FOR BUTTER IS NOT A BOUNTY OR GRANT, AND B) THAT AUSTRALIA AND THE U.S. HAD LIMITED OFFICIAL USE LIMITED OFFICIAL USE

PAGE 02 STATE 200492

REACHED AN UNDERSTANDING THAT THE AUSTRALIAN SYSTEM WOULD NOT BE SUBJECT TO COUNTERVAILING DUTIES AND THAT THIS IS REFLECTED IN GATT ARTICLE AD XVI SECTION B AND IN THE NEGOTIATING HISTORY OF GATT ARTICLES XVI; AD XVI; AND VI. IN

FACT TREASURY HAS REINVESTIGATED AUSTRALIAN SYSTEM AND FOUND IT TO BE A BOUNTY OR GRANT UNDER U.S. LAW. IN ADDITION, SINCE A COUNTERVAILING DUTY ORDER IS OUTSTANDING IT MAKES NO DIFFERENCE WHEN THE SYSTEM IN QUESTION WENT INTO EFFECT.

3. WITH REGARD TO POINT B, WE DO NOT CONSIDER THAT ARTICLE XVI OR AD XVI PRECLUDE ACTION UNDER ARTICLE VI. IN ADDITION, THE U.S. IS NOT LIMITED BY THE GATT IN THE APPLICATION OF ITS COUNTERVAILING DUTY LAW SINCE THE PROTOCOL OF PROVISIONAL APPLICATION OF THE GATT ONLY APPLIES TO POINTS NOT INCONSISTENT WITH EXISTING LEGISLATION.

4. TREASURY INFORMED AUSTRALIAN EMBASSY EARLY THIS YEAR OF ITS FINDING AND ITS INTENTION TO IMPOSE COUNTERVAILING DUTIES. AT REQUEST OF AUSTRALIAN EMBASSY FOR MORE TIME TO PRESENT FACTS AND FIGURES TREASURY HAS TWICE GRANTED EXTENSIONS, 30 DAYS AND 60 DAYS. AUSTRALIANS USED TIME TO MAKE FURTHER ARGUMENTS ON PRINCIPLE AND HAVE YET TO PRESENT ANY NEW PRICE INFORMATION. MOST RECENTLY, TREASURY HAS DELAYED ACTION TO ALLOW DEPARTMENT TIME TO REVIEW AUSTRALIAN POSITION AND TREASURY RESPONSE.

5. TREASURY WISHES WRAP UP CASE AS SOON AS POSSIBLE. DEPARTMENT HAS AGAIN BEEN REQUESTED BY AUSTRALIAN EMBASSY TO SEEK DELAY WHILE MATTER CONSIDERED IN CANBERRA AND DECISION MADE AS TO NEED FOR FORMAL GOVERNMENT-TO-GOVERNMENT CONSULTATIONS. TREASURY HAS RELUCTANTLY AGREED TO VERY BRIEF DELAY.

6. AUSTRALIAN EMBASSY INFORMED DEPARTMENT AFTERNOON AUGUST 22 THAT THE SECRETARY OF THE DEPARTMENT OF TRADE INTENDS CALL IN CHARGE EARLY NEXT WEEK TO DISCUSS THIS MATTER. MAJBR POINT WILL BE THAT AUSTRALIAN BELIEF THAT THEIR SYSTEM HAD BEEN EXCLUDED FROM COUNTERVAILING DUTIES FOR PAST 30 YEARS UNDER GATT NOT VALID. BELIEVE THIS COVERED IN PARA. 3 ABOVE.

LIMITED OFFICIAL USE
LIMITED OFFICIAL USE

PAGE 03 STATE 200492

7. EMBASSY MAY DRAW ON ABOVE IN ANY MEETINGS ON THIS SUBJECT. IN ADDITION EMBASSY SHOULD POINT OUT THAT CASE HAS NOW GONE ON FOR EXTENDED PERIOD AND FURTHER DELAY OF MORE THAN A FEW DAYS IN ANNOUNCING COUNTERVAILING DUTY WILL PROBABLY NOT BE POSSIBLE. AT THIS POINT IT WOULD BE IN BEST INTERESTS OF ALL CONCERNED FOR AUSTRALIANS TO PRESENT ANY FURTHER INFORMATION WHICH THEY MIGHT HAVE THAT COULD REDUCE DUTIES, WHICH EVEN BY TREASURY CALCULATION

ONLY AMOUNT TO APPROXIMATELY 250,000 DOLLARS. ROBINSON
UNQUOTE KISSINGER

LIMITED OFFICIAL USE

<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: X
Capture Date: 26 AUG 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: COUNTERVAILING DUTIES, BUTTER
Control Number: n/a
Copy: SINGLE
Draft Date: 04 SEP 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: CunninFX
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975STATE200492
Document Source: ADS
Document Unique ID: 00
Drafter: EB/OT/STA:MCJONES:CLJ
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Film Number: D750307-0024
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t197509107/baaaasvm.tel
Line Count: 110
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: CunninFX
Review Comment: n/a
Review Content Flags:
Review Date: 19 JUN 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <19 JUN 2003 by CunninFX>; APPROVED <10 NOV 2003 by CunninFX>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: n/a
TAGS: ETRD, AU, US
To: GENEVA INFO MTN GENEVA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006